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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,583	03/18/2004	George E. Spooner JR.	84,040	4137

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Naval Surface Warfare Center
Indian Head Division
101 Strauss Ave., Bldg. D-31
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EXAMINER

CLEMENT, MICHELLE RENEE

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/807,583	Applicant(s) SPOONER, GEORGE E.	
	Examiner Michelle (Shelley) Clement	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 11-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II, claims 5-10, in the reply filed on 10/10/06 is acknowledged. The traversal is on the ground(s) that the combination does require the particulars of the subcombination and the subcombination does not have separate utility. This is not found persuasive because Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the arcuate peripheral surface, a planar peripheral surface, an axial end face or a rectangular recess. The subcombination has separate utility such as a socket-type tool head in that applicant has not claimed a rocket loading tool head but has merely claimed "a tool head" and the particulars of the claimed tool head read on a socket wrench as cited below, applicant's intended use and what applicant might amend the claims to is irrelevant to the restriction at hand.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-4 and 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Where the written description only implicitly or inherently sets forth the structure, materials, or acts corresponding to a means-plus-function, applicant must clarify the disclosure to explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, or acts perform the function recited in the claim elements and equivalents thereof. (See MPEP 2181). Correction of the following is required: applicant must clarify the disclosure to explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, or acts perform the means for attaching a handle and means for releasably attaching a handle recited in the claim elements and equivalents thereof.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification should be consistent with the claim terminology, applicant should take care to maintain the same terminology throughout the specification, drawings and claims. It is not clear to the examiner what elements of the tool head in the figures and specification correspond to the claimed: arcuate peripheral surface conforming to a segment of a cylinder, a planar peripheral surface subtending the arcuate peripheral surface extending parallel to the axis, an axial end face terminating the arcuate peripheral surface, an arcuate outer planar face, and a central planar face.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The term "oppositely of said axis from the arcuate center" in claim 5 is a relative term which renders the claim indefinite. The term "oppositely of said axis from the arcuate center" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear to the examiner what is opposite of the axis from the arcuate center or that anything can be opposite to an axis from an arcuate center of a planar peripheral surface that subtends an arcuate peripheral surface conforming to a segment of a cylinder.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayes et al. (US Patent # 3,670,624). Hayes et al. discloses a tool head (reference 10) comprising an arcuate peripheral surface conforming to a segment of a cylinder having a predetermined axis, a planar peripheral surface subtending the arcuate peripheral surface, the planar peripheral surface extending parallel to the axis, an axial end face terminating the arcuate peripheral surface and the

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planar peripheral surface, the axial end face including at least one planar face surface extending normal to the axis, and a rectangular recess defined by the head and extending into the head in a direction along the axis from the axial end face and in a direction perpendicular to the axis from the arcuate peripheral surface. Means disposed at an axial end of the tool head oppositely of the end face for attaching a handle to the tool head. An arcuate outer planar face surface extending radially inward from the arcuate peripheral surface and a central planar face surface disposed radially within the arcuate outer planar face surface and recessed inwardly of the tool head in a direction along the axis from the arcuate outer planar face surface. Means for releasably attaching a handle to the tool head disposed at an axial end of the tool head axially opposite of the end face. The tool head being of unitary construction of a material that dissipates static electricity (elastopolymer).

10. Claims 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Han (US Patent # 6,082,233). Han discloses a tool head (reference 10, 60, or 640) comprising an arcuate peripheral surface conforming to a segment of a cylinder having a predetermined axis, a planar peripheral surface subtending the arcuate peripheral surface, the planar peripheral surface extending parallel to the axis, an axial end face terminating the arcuate peripheral surface and the planar peripheral surface, the axial end face including at least one planar face surface extending normal to the axis, and a rectangular recess defined by the head and extending into the head in a direction along the axis from the axial end face and in a direction perpendicular to the axis from the arcuate peripheral surface. Means disposed at an axial end of the tool head oppositely of the end face for attaching a handle to the tool head. An arcuate outer planar face surface extending radially inward from the arcuate peripheral surface and a central planar face surface disposed

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radially within the arcuate outer planar face surface and recessed inwardly of the tool head in a direction along the axis from the arcuate outer planar face surface. Means for releasably attaching a handle to the tool head disposed at an axial end of the tool head axially opposite of the end face. The tool head being of unitary construction.


Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wallin (US Patent # 3,314,332).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MICHELLE CLEMENT
PRIMARY EXAMINER